

REMARKS

Claims 1-5 are pending in the application, and are rejected. Claim 1 is herein amended. Claims 6 and 7 are newly added. No new matter has been entered. Claim 3 is herein canceled.

Priority

The Examiner notes that Applicants have not filed a certified copy of JP 2002-351988 application as required by 35 U.S.C. 119(b). Applicants submit the certified copy herewith.

Claim Rejections - 35 U.S.C. §102(b)

Claims 1-5 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,856,278 to Brewer. The Examiner asserts that Brewer discloses examples 1 and 2 in col. 2 where solvated NBR is present in an amount of 15 vol. %. The Examiner asserts that although the binder is cured, it is not vulcanized and therefore the solvated NBR reads on the instant claims.

The Examiner asserts that even though Brewer discloses the unvulcanized rubber as part of the *binder* component in contrast with the claimed invention having the unvulcanized rubber as part of the *filler* (C) component, once the ingredients are mixed together to form the friction material, the distinction between the components becomes unnecessary because the final product is the same regardless of the description of the components before mixing.

With respect to the Mohs hardness value is present claim 2, the Examiner asserts that it would be inherent that the alumina of Brewer have a Mohs hardness of 6 or more.

Applicants herein amend claim 1 to more clearly define the invention. Thereafter, Applicants disagree with the rejection because the cited reference does not teach or suggest all the limitations of the claimed invention.

Applicants note that in the present amendment, the abrasive particles in claim 1 are limited to SiC particles. This amendment is supported in the specification in paragraph [0023] and Examples of the present publication.

Applicants note that in Brewer there is no teaching or suggestion of using SiC particles. Therefore, because at least this limitation is not taught or suggested by the cited reference, the present invention is not anticipated by Brewer.

Furthermore, because claim 1 is hereby patentably distinguished from the cited reference, dependent claims 2 and 4-5 are necessarily distinguished.

Claims Rejections – 35 U.S.C. §103(a)

Claims 1 and 3-5 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,220,404 to Hara et al. in view of U.S. Patent No. 4,324,706 to Tabe et al.

The Examiner admits that Hara et al. does not disclose whether the rubber friction adjusting agents are unvulcanized or vulcanized. However, the Examiner notes that Tabe et al. teaches that unvulcanized rubbers are known to perform as friction adjusting agents in friction materials. The Examiner concludes that it would have been obvious to utilize unvulcanized friction adjusting agents and thereby arrive at the presently cited claims.

Claim 2 is rejected under 35 U.S.C. §103(a) as being unpatentable over Hara et al. in view of Tabe et al. and further in view of U.S. Patent No. 5,006,589 to Sakamoto et al.

Applicants herein amend claim 1 to more clearly define the invention. Thereafter, Applicants disagree with the rejection because the cited reference does not teach or suggest all the limitations of the claimed invention.

In the present amendment, the abrasive particles in claim 1 are limited to SiC particles. Applicants note that in neither one of Hara et al. or Tabe et al. is there a teaching or suggestion with respect to SiC particles. Therefore, because the use of SiC particles as the abrasive particles is not disclosed or suggested at all in these references, Applicants submit that the present invention could not be obvious over the cited reference or combination thereof.

Applicants admit that Sakamoto et al. (USP 5,006,589) mentions SiC particles as particles with a Mohs hardness of 6 or more. However, Applicants note that the invention of Sakamoto et al. is directed to a polyester film for magnetic recording media, rather than a friction material, so that a person skilled in the art would not have been motivated from the reference to apply SiC particles to a friction material. Therefore, Applicants submit that the present invention would not have been obvious from the references cited in any combination.

Because claim 1 is hereby patentably distinguished from the cited reference, claims 2 and 4-5 are necessarily distinguished.

Application No. 10/724,366
Attorney Docket No. 032126

Amendment under 37 C.F.R. §1.111
Amendment filed November 3, 2005

In view of the aforementioned amendments and accompanying remarks, Applicants submit that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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